

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
Civil Action No.:

MATTHEW DAY,

Plaintiff,

v.

NEW YORK STATE MARINE HIGHWAY
TRANSPORTATION, LLC

Defendants.

COMPLAINT

Plaintiff Matthew Day (“plaintiff”), by counsel, for his Complaint, states as follows:

THE PARTIES

1. The plaintiff, Matthew Day (“plaintiff”, or “Mr. Day”), is an individual and resides at 68 Storer St. Apt. 201, Saco, Maine.

2. The defendant, New York State Marine Highway Transportation, LLC (“NYSMHT”), is a New York limited liability company headquartered at 427 River Street, Troy, NY, which at all times relevant to this action conducted business in New York, and can be served through its registered agent: THE LLC, 427 River Street, Troy, NY 128180.

JURISDICTION

3. This is a case of maritime jurisdiction pursuant to 28 U.S.C. § 1333(1).

VENUE

4. Venue is proper pursuant to 28 U.S. Code § 1391(b)(2), as a substantial part of the events or omissions giving rise to the claim occurred in this judicial district.

FACTUAL ALLEGATIONS

5. On or about March 28, 2022, Mr. Day was employed by the defendant, NYSMHT, as a seaman and crew member and suffered serious injuries when he was performing work on the

vessel FRANCIS. During this work, Plaintiff was ordered to do dangerous work in high winds and rough seas with old equipment and a shorthanded crew. As Plaintiff was performing his normal duties, Plaintiff was caught by a line and his foot was sucked under a cleat. The weight of the line, which was connected to the boat and barge, crushed his foot and snapped his bones, injuring his foot, ankle, leg and back.

6. At the same time and place, the plaintiff, Mr. Day, was employed by the defendant, defendant, NYSMHT, as a maritime worker and suffered serious injuries when he was injured by the negligence of NYSMHT in failing to provide a safe workplace, and more specifically, a safe crew with proper equipment for the conditions.

COUNT I

NEGLIGENCE – JONES ACT

7. Plaintiff reaffirms and realleges Paragraphs 1 through 6 above as if specifically affirmed and alleged herein.

8. The injuries sustained by the plaintiff, Matthew Day, were not caused by any fault on his part, but were caused by the negligence of the defendants, their agents, or servants as follows:

- a. failure to use due care to provide and maintain a seaworthy vessel with safe and proper appliances;
- b. failure to use due care to make reasonable and periodic inspection of said vessel, its equipment and appliances;
- c. failure to use due care to furnish the plaintiff with a reasonably safe place in which to perform his work;

- d. failure to use due to care to ensure the weather and sea conditions were appropriate for the work to be done with the equipment and crew available;
- e. failure and negligence of fellow employees; and,
- f. failure and negligence in other respects that will be shown at trial.

9. As a result of the said injuries, the plaintiff, Mr. Day, has suffered great pain of body and anguish of mind, was prevented from performing his usual duties, incurred medical and hospital expenses, and has suffered and will suffer other damages that will be shown at trial.

10. This cause of action is brought under the Merchant Marine Act of 1920, commonly called the Jones Act, 46 U.S.C. §30104.

WHEREFORE, PLAINTIFF MATTHEW DAY DEMANDS JUDGMENT IN THE AMOUNT OF TWO MILLION FIVE HUNDRED THOUSAND DOLLARS (\$2,500,000.00) AGAINST DEFENDANT NEW YORK STATE MARINE HIGHWAY TRANSPORTATION, LLC, PLUS INTEREST, COSTS, AND SUCH OTHER AND FURTHER RELIEF AS THE COURT DEEMS APPROPRIATE.

COUNT II

GENERAL MARITIME LAW – UNSEAWORTHINESS

11. Plaintiff reaffirms and realleges Paragraphs 1 through 10 above as if specifically affirmed and alleged herein.

12. The injuries sustained by the plaintiff, Mr. Day, were caused by the unseaworthiness of defendant, including its vessel, its appliances, appurtenances, and equipment.

13. As a result of the said injuries, the plaintiff has suffered great pain of body and anguish of mind, lost a great deal of time from his usual work, incurred medical and hospital expenses, and has suffered and will continue to suffer other damages that will be shown at trial.

14. This cause of action is brought under the General Maritime Law based upon unseaworthiness and is for the same cause of action as Count I.

WHEREFORE, PLAINTIFF MATTHEW DAY DEMANDS JUDGMENT IN THE AMOUNT OF TWO MILLION FIVE HUNDRED THOUSAND DOLLARS (\$2,500,000.00) AGAINST DEFENDANT NEW YORK STATE MARINE HIGHWAY TRANSPORTATION, LLC, PLUS INTEREST, COSTS, AND SUCH OTHER AND FURTHER RELIEF AS THE COURT DEEMS APPROPRIATE.

COUNT III

GENERAL MARITIME LAW – MAINTENANCE AND CURE

15. Plaintiff reaffirms and realleges Paragraphs 1 through 14 above as if specifically affirmed and alleged herein.

16. As a result of his injuries, the plaintiff, Matthew Day, has incurred expenses for his maintenance and cure and will continue to do so.

WHEREFORE, PLAINTIFF MATTHEW DAY DEMANDS JUDGMENT IN THE AMOUNT OF TWO MILLION FIVE HUNDRED THOUSAND DOLLARS (\$2,500,000.00) AGAINST DEFENDANT NEW YORK STATE MARINE HIGHWAY TRANSPORTATION, LLC, PLUS INTEREST, COSTS, AND SUCH OTHER AND FURTHER RELIEF AS THE COURT DEEMS APPROPRIATE.

COUNT IV

33 U.S.C. §905(b) – NEGLIGENCE

17. Plaintiff reaffirms and realleges Paragraphs 1 through 16 above as if specifically affirmed and alleged herein.

18. The injuries sustained by the plaintiff, Mr. Day, were due to no fault of his, but were caused by the negligence of the fleet of vessels owned, operated, controlled and/or chartered by defendant.

19. As a result of said injuries, plaintiff, Mr. Day, has suffered great pain of body and anguish of mind, incurred medical and hospital expenses, lost a great deal of time from his usual work, and has suffered and will suffer other damages as will be shown at the trial.

19. This cause of action is for negligence pursuant to 33 U.S.C. §905(b).

WHEREFORE, PLAINTIFF MATTHEW DAY DEMANDS JUDGMENT IN THE AMOUNT OF TWO MILLION FIVE HUNDRED THOUSAND DOLLARS (\$2,500,000.00) AGAINST DEFENDANT NEW YORK STATE MARINE HIGHWAY TRANSPORTATION, LLC, PLUS INTEREST, COSTS, AND SUCH OTHER AND FURTHER RELIEF AS THE COURT DEEMS APPROPRIATE.

PLAINTIFF DEMANDS TRIAL BY JURY ON ALL COUNTS

Dated: May 23, 2022

Plaintiff,
By his attorneys,

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